

(2016) 02 MAD CK 0219

MADRAS HIGH COURT

Case No: Writ Appeal Nos. 1709-1710 of 2015 and M.P. No. 1 of 2015

Sheer Gold Pvt. Ltd.

APPELLANT

Vs

Commissioner of Customs (Air),
Chennai

RESPONDENT

Date of Decision: Feb. 26, 2016

Citation: (2016) 338 ELT 213

Hon'ble Judges: V. Ramasubramanian and N. Kirubakaran, JJ.

Bench: Division Bench

Advocate: Shri S. Venkatachalam, Advocate, for the Appellant; Shri V. Sundareswaran, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

V. Ramasubramanian, J.—These writ appeals arose out of a common order passed by the learned judge in two Writ Petitions filed by the appellants herein, challenging the refusal of the adjudicating authority to provide copies of certain documents mentioned in the show cause notice.

2. Heard Mr. S. Venkatachalam, learned counsel appearing for the appellant and Mr. V. Sundareswaran, learned Senior Panel Counsel for the respondent.

3. The appellants are said to have imported gold jewellery from Thailand by availing the benefit of exemption under Customs Notification No. 85/2004, dated 31-8-2004 read with Customs Notification No. 101/2004, dated 31-8-2012.

4. On the basis of intelligence, the officials of the Directorate of Revenue Intelligence conducted a search in the premises of the appellants and issued show cause notice dated 21-12-2012 under Section 124 of the Customs Act, 1962. In the show cause notice, the second respondent herein claimed that the certificates produced by the appellants, from the parties in Thailand which allegedly sold the gold jewellery to them, were referred to Government of Thailand for verification. Therefore, the appellants sought copies of those documents.

5. However, by letter dated 13-11-2013, the adjudicating officer claimed that those documents are not sought to be relied upon in the adjudication proceedings. Therefore, challenging the denial of copies of those documents, the appellants filed two writ petitions in W.P. Nos. 238 and 239 of 2014. The writ petitions were dismissed by the learned Judge by an order dated 9-10-2014 forcing the appellants to come up with the above appeals.

6. At the outset, it should be pointed out that the appellants have approached this Court at the stage of show cause notice. The adjudication proceedings are not yet complete. It is true that the show cause notice made a mention about certain documents, but, by the orders impugned in the writ petitions, the Department has taken a stand that those documents are not relied upon. Once the Department takes a stand that they are not relying upon certain documents mentioned in the show cause notice, there is no way the appellants could compel the Department to furnish copies of such documents before adjudication. If at all the Department relies upon any document that they do not furnish to appellant, the appellant can always challenge the order-in-original passed thereafter, on the ground of violation of principles of natural justice. But, at the stage of adjudication proceedings, the appellant cannot forestall the enquiry. Therefore, we find nothing wrong in the order of the learned judge. Hence, the writ appeals are dismissed. It is open to the appellant to raise all those points before the adjudicating officer. No costs. The connected miscellaneous petitions are also dismissed.